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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,885	07/12/2001	Massi E. Kiani	MASIBP.013A	3598
20995	7590	01/27/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			RUHL, DENNIS WILLIAM	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3629	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,885

Applicant(s)

KIANI, MASSI E.

Examiner

Dennis Ruhl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 14-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Applicant's election of 10/28/05 is noted. Applicant has elected claims 1-13,25 without traverse; therefore, claims 14-24 are withdrawn as being directed to a non-elected invention. Claims 1-13,25 have been examined.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 1, the preamble recites "A method of using a continuous multi-mode blood pressure monitor" and then at line 8, it is recited "using a blood pressure monitor with a sensor". The preamble indicates that the claimed method is for using one blood pressure monitor, but the recitation at line 8 seems to be a positive recitation to a second blood pressure monitor, for a total of two. It is not clear as to whether or not the method is directed to the use of one blood pressure monitor or more than one blood pressure monitor.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-4,8-13, are rejected under 35 U.S.C. 102(b) as being anticipated by Caro et al. (6045509).

For claims 1,2,12,13, Caro discloses a method of using a continuous multi mode blood pressure monitor 100. The monitor has a sensor input as claimed (where the sensor cable connects to the monitor). The cuff (calibration device) is 110 and the sensor is the combination of 202 and 210. Applicant has claimed using the monitor without a sensor (the cuff) to provide a non-continuous measurement of blood pressure and then at a second time using a monitor with a sensor (presumed to be the same monitor) to provide continuous blood pressure measurements. Caro discloses that the blood pressure monitor is first calibrated by using the blood pressure cuff to provide an initial calibration, see column 4, lines 36-40. After the calibration step is completed, the monitor can be used in the continuous mode by using the sensor to provide continuous measurements. This satisfies the use of the monitor at a first time without the sensor (the calibration step) and the use of the monitor at a second time with the sensor (for the continuous mode).

For claims 3,4, see column 4, lines 44-52.

For claim 8, see the figures where the claimed limitation is shown.

For claims 9,10, the sensor 202/210 is non-invasive as claimed. Caro discloses the limitations of claim 10 because that is how the sensor 202/210 is disclosed as working. The sensor excites a perturbation in the blood and senses an effect of the perturbation.

For claim 11, see column 4, line 59, where the cuff is referred to as a calibration device.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4,8-13,25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Caro et al. (6045509).

For claim 1,2,12,13,25, Caro discloses a method of using a continuous multi mode blood pressure monitor 100. The monitor has a sensor input as claimed (where the sensor cable connects to the monitor). The cuff (calibration device) is 110 and the sensor is the combination of 202 and 210. Caro does not disclose the recited steps for the first time and for the second time. Applicant has claimed using the monitor without a sensor (the cuff) to provide a non-continuous measurement of blood pressure and then using a monitor with a sensor (presumed to be the same monitor) to provide continuous blood pressure measurements.

The examiner takes official notice that it is old and notoriously well known in the medical art that when visiting a doctor the patients blood pressure will be taken as part of the doctor visit. This is a routine aspect of a physical examination that is very well known as being a variable that provides important information about the patient's health. It would have been obvious to one of ordinary skill in the art at the time the invention

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was made to have the medical doctor or other medical personnel (using the device of Caro) take the blood pressure of a patient by using the blood pressure cuff, so that the doctor knows the initial current blood pressure of the patient. This satisfies the "first time" recited method steps. With respect to the use of the blood pressure monitor with the sensor at a second time (attaching the sensor at a later time in claim 25), in the event the patient exhibits a high blood pressure at the first time, one of ordinary skill in the art would be motivated to further monitor the blood pressure by using the recognized more accurate mode of continuous blood pressure monitoring at a second time (which can be just a minute later). Because one of ordinary skill in the art is concerned with the measured value of blood pressure, if an initial measurement indicates a high blood pressure, one of ordinary skill would be concerned about this situation and would be motivated to place the patient under continuous blood pressure measurements by attaching the sensor to the patient so that a more accurate assessment of the high blood pressure can be obtained.

For claims 3,4, see column 4, lines 44-52.

For claim 8, see the figures where the claimed limitation is shown.

For claims 9,10, the sensor 202/210 is non-invasive as claimed. Caro discloses the limitations of claim 10 because that is how the sensor 202/210 is disclosed as working. The sensor excites a perturbation in the blood and senses an effect of the perturbation.

For claim 11, see column 4, line 59, where the cuff is referred to as a calibration device.

7. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caro et al. (6045509) in view of Wohltmann et al. (5904654).

For claims 5-7, Caro discloses the invention substantially as claimed. Caro does not disclose that the sensor includes an exciter and a transducer, where the exciter and transducer are integrated into one unit, which is a wristband. Wohltmann discloses an exciter/detector unit that is incorporated into one unit in the form of a wristband. The one-piece unit is an improvement over a two-piece unit and allows for convenient attachment to the body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Caro with a one piece unit as disclosed by Wohltmann so that instead of having to connect two units to the patient (as in Caro), one only has to connect the wristband of Wohltmann.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DENNIS RUHL
PRIMARY EXAMINER